

Juanita R. Brooks (CA SBN 75934) / brooks@fr.com
Roger A. Denning (CA SBN 228998) / denning@fr.com
Frank J. Albert (CA SBN 247741) / albert@fr.com
K. Nicole Williams (CA SBN 291900) / nwilliams@fr.com
Jared A. Smith (CA SBN 306576) / jasmith@fr.com
Tucker N. Terhufen (CA SBN 311038) terhufen@fr.com
FISH & RICHARDSON P.C.
12860 El Camino Real, Ste. 400
San Diego, CA 92130
Telephone: (858) 678-5070 / Fax: (858) 678-5099

Attorneys for Plaintiff,
FINJAN LLC

Michael A. Jacobs (CA SBN 111664)
MJacobs@mofo.com
Matthew A. Chivvis (CA SBN 251325)
MChivvis@mofo.com
Diek O. Van Nort (CA SBN 273823)
DVanNort@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-7000/Fax: (415) 268-7522

Attorneys for Defendant,
PALO ALTO NETWORKS, INC.

Additional counsel on signature page

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

FINJAN LLC,

Plaintiff,

v.

PALO ALTO NETWORKS, INC.,

Defendant.

Case No. 3:14-CV-04908-PJH

**STIPULATION & [PROPOSED]
ORDER RE: CASE
NARROWING SCHEDULE**

Judge: Honorable Phyllis J. Hamilton

Pursuant to Civil Local Rule 7-12 and the Court's instructions at the Case Management Conference (CMC) held on March 18, 2021, Defendant Palo Alto Networks, Inc. ("PAN") and Plaintiff Finjan LLC ("Finjan") stipulate to the following case narrowing schedule.

<u>Election</u>	<u>Timing</u>	<u>Max Claims/ References Per Patent</u>	<u>Total Claims/ References</u>
Preliminary Election of Asserted Claims	Not later than 35 days after PAN's invalidity contentions, <i>i.e.</i> , June 21, 2021	10	21
Preliminary Election of Asserted Prior Art	Not later than 15 days after Preliminary Election of Asserted Claims, <i>i.e.</i> , July 6, 2021	12	30
Second Election of Asserted Claims	Not later than 21 days after Claim Construction Order	6	14
Second Election of Asserted Prior Art	Not later than 14 days after Second Election of Asserted Claims	7	20
Third Election of Asserted Claims and Asserted Prior Art	Parties to meet and confer and submit competing proposal if necessary no less than 45 days before opening expert reports	TBD	TBD

Not later than June 21, 2021, Finjan shall serve a Preliminary Election of Asserted Claims, which shall assert from claims previously asserted in its Infringement Contentions (Patent L.R. 3-1) no more than 10 claims per patent and no more than a total of 21 claims across all Patents-in-Suit. Not later than July 6, 2021, PAN shall serve a Preliminary Election of Asserted Prior Art, which shall assert from prior art previously asserted in its Invalidity Contentions (Patent L.R. 3-3) no more than 12 prior art references per patent and no more than a total of 30 references across all Patents-in-Suit.¹

Not later than 21 days after the Court enters a claim construction order, Finjan shall serve a Second Election of Asserted Claims, which shall assert from the subset of claims previously identified no more than 6 claims per patent and no more than a total of 14 claims across all Patents-in-Suit. Not later than 14 days after service of the Second Election of Asserted Claims,

¹ A prior art instrumentality (such as a device or process) and associated references that describe that instrumentality shall count as one reference, as shall the closely related work of a single prior artist. Any such closely related work shall be used solely for the purposes of describing the prior art instrumentality and shall not be available to be used in combination with other disclosed instrumentalities unless specifically disclosed for those other instrumentalities.

PAN shall serve a Second Election of Asserted Prior Art, which shall assert from the subset of prior art references previously identified no more than 7 references per patent and no more than a total of 20 references across all Patents-in-Suit.

Not later than 45 days prior to the parties' service of opening expert reports, the parties shall meet and confer regarding a possible Third Election of Asserted Claims and Third Election of Asserted Prior Art. At the time of signing of this stipulation, neither party commits that it will propose further reduction in Third Election, only that it will agree to meet and confer. If the parties agree on further reduction, they will submit a joint proposal to the Court. If the parties disagree, they may submit competing proposals if necessary.

Upon a showing of diligence, and with due consideration for prejudice, a party may seek to modify the above limits on asserted claims and prior art references for good cause shown. Any request to increase these limits must specifically show why the inclusion of additional asserted claims or prior art references is warranted. *See In re Katz Interactive Call Processing Patent Litig.*, 639 F.3d 1303, 1312–13 (Fed. Cir. 2011). A failure to seek such a modification will constitute acquiescence to the above limits on asserted claims and prior art references.

DATED: June 1, 2021

/s/ Colette Reiner Mayer

Michael A. Jacobs (CA SBN 111664)
MJacobs@mofo.com
Matthew A. Chivvis (CA SBN 251325)
MChivvis@mofo.com
Diek O. Van Nort (CA SBN 273823)
DVanNort@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: (415) 268-7000/Fax: (415) 268-7522

Rudy Y. Kim (CA SBN 99426)
RudyKim@mofo.com
Colette Reiner Mayer (CA SBN 263630)
CRMayer@mofo.com
MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, California 94304-1018
Telephone: (650) 813-5600/Fax: (650) 494-0792

Rose S. Lee (CA SBN 294658)
RoseLee@mofo.com
MORRISON & FOERSTER LLP
707 Wilshire Boulevard, Suite 6000
Los Angeles, California 90017-3543
Telephone: (213) 892-5200/Fax: (213) 892-5454

Eric W. Lin (*Pro Hac Vice*)
Elin@mofo.com
Michael J. DeStefano (*Pro Hac Vice*)
Mdestefano@mofo.com
MORRISON & FOERSTER LLP
250 West 55th Street
New York, New York 10019-9601
Telephone: (212) 468-8000/Fax: (212) 468-7900

Attorneys for Defendant
PALO ALTO NETWORKS, INC.

DATED: June 1, 2021

/s/ Roger A. Denning
Juanita R. Brooks (CA SBN 75934)
brooks@fr.com
Roger A. Denning (CA SBN 228998)
denning@fr.com
Frank J. Albert (CA SBN 247741)
albert@fr.com
K. Nicole Williams (CA SBN 291900)
nwilliams@fr.com
Jared A. Smith (CA SBN 306576)
jasmith@fr.com
Tucker N. Terhufen (CA SBN 311038)
terhufen@fr.com
FISH & RICHARDSON P.C.
12860 El Camino Real, Ste. 400
San Diego, CA 92130
Telephone: (858) 678-5070 / Fax: (858) 678-5099

Aamir Kazi (*Pro Hac Vice*)
kazi@fr.com
Lawrence Jarvis (*Pro Hac Vice*)
jarvis@fr.com
FISH & RICHARDSON P.C.
1180 Peachtree St. NE, 21st floor
Atlanta, GA 30309
Telephone: (404) 892-5005 / Fax: (404) 892-5002

Phillip W. Goter (*Pro Hac Vice*)
goter@fr.com
FISH & RICHARDSON P.C.
3200 RBC Plaza, 60 South Sixth Street
Minneapolis, MN 55402
Telephone: (612) 335-5070 / Fax: (612) 288-9696

Susan E. Morrison (*Pro Hac Vice*)
morrison@fr.com
FISH & RICHARDSON P.C.
222 Delaware Ave., 17th Floor
P.O. Box 1114
Wilmington, DE 19801
Telephone: (302) 652-5070 / Fax: (302) 652-0607

Tracea Rice (*Pro Hac Vice*)
trice@fr.com
FISH & RICHARDSON P.C.
1000 Maine Ave. Ste. 1000
Washington, DC 20024
Telephone: (202) 783-5070 / Fax: (202) 783-2331

Attorneys for Plaintiff
FINJAN LLC

ATTESTATION OF E-FILED SIGNATURE

I, Colette Reiner Mayer, am the ECF User whose ID and password are being used to file this Stipulation. In compliance with Civil L.R. 5-1(i)(3), I hereby attest that Roger A. Denning has concurred in this filing.

Dated: June 1, 2021

/s/ Colette Reiner Mayer
Colette Reiner Mayer

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

Honorable Phyllis J. Hamilton
United States District Court Judge